STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of CAROLYNNE HILL, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JAMES HILL,

Respondent-Appellant.

UNPUBLISHED
June 15, 2006

No. 266655
Montcalm Circuit Court
Family Division
LC No. 2005-000194-NA

In the Matter of CAROLYNNE HILL, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

AMANDA HILL,

Respondent-Appellant.

No. 266656
Montcalm Circuit Court
Family Division
LC No. 2005-000194-NA

In the Matter of JUSTICE HILL, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JAMES HILL,

Respondent-Appellant.

No. 266657
Montcalm Circuit Court
Family Division
LC No. 2004-000158-NA

In the Matter of JUSTICE HILL, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

AMANDA HILL,

Respondent-Appellant.

No. 266658
Montcalm Circuit Court
Family Division
LC No. 2004-000158-NA

In the Matter of ISAAC HILL, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JAMES HILL,

Respondent-Appellant.

No. 266659
Montcalm Circuit Court
Family Division
LC No. 2004-000147-NA

In the Matter of ISAAC HILL, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

AMANDA HILL,

Respondent-Appellant.

No. 266660
Montcalm Circuit Court
Family Division
LC No. 2004-000147-NA

In the Matter of DAKOTA HILL, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JAMES HILL,

Respondent-Appellant.

No. 266661
Montcalm Circuit Court
Family Division
LC No. 2004-000146-NA

In the Matter of DAKOTA HILL, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

AMANDA HILL,

Respondent-Appellant.

No. 266662
Montcalm Circuit Court
Family Division
LC No. 2004-000146-NA

Before: O'Connell, P.J., and Murphy and Wilder, JJ.

PER CURIAM.

Respondents appeal as of right from the trial court order terminating their parental rights to the minor children under MCL 712A.19b(3)(g), (j), and (m). We affirm.

First, respondent-father contends that the terms "proper care and custody" and "reasonable time" in MCL 712A.19b(3)(g) are unconstitutionally vague. This Court previously rejected a similar argument in *In the Matter of Gentry*, 142 Mich App 701, 709-713; 369 NW2d 889 (1985); therefore, we find no merit to the claim. Reversal is not warranted under the vagueness doctrine.

Respondent-father next argues that the agreement he entered into with the agency, where he voluntarily terminated his parental rights to his daughter Savannah and agreed to the court's jurisdiction in exchange for the time and opportunity to complete a case service plan and demonstrate that he could be a proper parent to the other children, was illusory. We disagree. First, the record shows that respondent-father knew and understood his rights and the implications of the agreement and that the possibility of termination of his parental rights existed if he did not follow the requirements of the case service plan. Second, the requirements of the case service plan were clearly and unambiguously stated. More than 14 months after the agreement was placed on the record, respondent-father had not complied with the requirements or invested in the counseling. The agreement was not illusory.

Next, respondent-father contends that the evidence was not sufficient to support the statutory grounds for termination. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). We review the trial court's decision under the clearly erroneous standard. MCR 3.977(J); *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Gazella*, 264 Mich App 668, 672; 692 NW2d 708 (2005). There is no question that respondent-father voluntarily terminated his parental rights to his daughter Savannah. Therefore, there was clear and convincing evidence to support termination under MCL 712A.19b(3)(m). Respondent-father was not able to demonstrate or articulate what was required to properly parent the children. His failure to recognize and acknowledge that the children had been neglected while under his care and custody supported a finding of a reasonable likelihood of harm if they were returned to the home. His failure to comply with the requirements of the case service plan demonstrated that there was no reasonable expectation that he would be able to provide the proper care and custody within a reasonable time. See *Gazella, supra* at 676. He never reached the point where his counselor could recommend that he was ready to have contact with the children. He did not comply with the requirement to attend substance abuse counseling. The evidence supported the court's finding that he did not have the capacity to parent the children and had not completed the essentials of the case service plan. The trial court's ruling that there was clear and convincing evidence to support termination under MCL 712A.19b(3)(g) and (j) was not clearly erroneous.

Finally, respondent-father contends that the court did not make sufficient findings concerning the best interests of the children. Again, we disagree. Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court

shall order termination of parental rights, unless the court finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo Minors*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision regarding the child's best interests is reviewed for clear error. *Id.* at 356-357. The court may consider evidence introduced by any party or may find from the evidence on the whole record that termination is clearly not in a child's best interests. *Id.* at 353.

We find the trial court's articulation regarding the children's best interests to be sufficient. The trial court assumed jurisdiction over these children following allegations that respondent-father had sexually abused the children's two older half sisters. He refused to acknowledge responsibility, did not comply with all of the court's requirements for therapy, and he did not fully benefit when he did participate. Although there was testimony that he was appropriate during supervised visitation with the infant Carolynne, he did not participate in caring for the children during visitations when respondent-mother was present. The evidence did not show that termination of his parental rights would be against the children's best interests. There was no clear error.

Respondent-mother argues that the trial court terminated her parental rights prematurely because she was given only six months to work on her case service plan and was making efforts to improve her deficiencies and to comply with the requirements of the case service plan during a time when she had been severely ill and was dealing with a death in the family. We disagree. Respondent-mother's reliance on *In re Newman*, 189 Mich App 61; 472 NW2d 38 (1991), is misplaced. Respondent-mother did not demonstrate an ability and willingness to learn, she had not met the objectives of the case service plan, there was no question that the agency made sufficient efforts to aid respondent-mother, and she was given a full and fair opportunity to demonstrate that she could rectify the conditions that brought the children into custody. Unlike the respondent in *In re Boursaw*, 239 Mich App 161, 172-173, 177; 607 NW2d 408 (1999), overruled in part on other grounds in *Trejo*, *supra* at 353-354, respondent-mother had not made significant strides towards remedying the problems that brought the matter to the court. In fact, she had demonstrated no improvement in her parenting skills, made no progress in counseling, and refused to acknowledge that the children had been neglected under her care. The evidence was clear and convincing that she had made no progress and there was no reasonable likelihood that progress would be made within a reasonable time considering the ages and needs of the children. A claim of premature termination must be based on a showing that the respondent had been making significant progress at the time of the termination.[1] The evidence supports the conclusion that termination of respondent-mother's parental rights was not premature.

Finally, there was clear and convincing evidence to support respondent-mother's termination under MCL 712A.19(b)(g) and (j). Respondent-mother had failed to provide proper care and custody of the children before their removal from the home. The children's physical, hygienic, emotional, medical, and nutritional needs had been seriously and dangerously

[1] Going through the motions is insufficient as the parent must benefit from the services offered. *Gazella*, *supra* at 676. Attending parenting classes, but learning nothing, is of no benefit because harmful parenting skills remain unchanged. *Id.*

neglected. Despite parenting classes, counseling, and suggestions and direction from the workers, respondent-mother had shown no improvement in her parenting skills or in her understanding of the needs of the children. Thus, there was no reasonable expectation that she would be able to provide proper care and custody within a reasonable time considering the children's ages and their special needs. MCL 712A.19b(3)(g). The trial court's ruling was not clearly erroneous.

In addition to the neglect of the children's physical and medical needs, there were numerous examples of situations during visitation where respondent-mother did not notice that one of her children was in danger of injury, requiring the workers to step in to protect the child. Further, respondent-mother never acknowledged that the children had been neglected while in her care, leading to the conclusion that she saw no need for change or improvement. It was clear that she did not have the capacity to properly parent the children. The evidence was clear and convincing that there was a reasonable likelihood, based on her conduct and capacity, that the children would be harmed if returned to her home. MCL 712A.19b(3)(j). There was no clear error relative to the statutory grounds for termination, nor with respect to the children's best interests.

Affirmed.

/s/ Peter D. O'Connell
/s/ William B. Murphy
/s/ Kurtis T. Wilder